



Minerals Enforcement Program

August 24, 2016

Purpose of Presentation

- Purposes of the Mined Land Reclamation Act.
- Reclamation and bonding requirements.
- Enforcement options including alternatives to direct enforcement.
- Examples and Problems.

Findings of the Act.

- Mining industry essential.
- Surface disturbance unavoidable, but **minimize undesirable effects on the surroundings.**
- Mined land reclaimed to **prevent conditions detrimental to the general safety and welfare of the public** and to **provide for the subsequent use of the lands affected.**

Purpose of the Act.

The purpose of this act is to provide that . . . all mining in the state shall include plans for reclamation of the land affected.

Primary focus of the Minerals Regulatory Program is to ensure the State has adequate surety and that sites are reclaimed.



Financial Assurance (Bond)

40-8-7 (1) The board and the division may require:

(b) the reclamation of lands affected by mining operations . . . ;

(c) . . . the furnishing and maintenance of reasonable surety

Forfeiture

If the operator fails or refuses to conduct reclamation . . .
the Board may, after notice and hearing, order that:

1. Reclamation be conducted by the Division,
2. The costs and expenses of reclamation . . . be recovered in a civil action
3. Reclamation surety be forfeited.

Normally done when a withdrawal condition exists but
sometimes when an operator loses right of entry.

Withdrawing a Notice.

A Notice may be withdrawn if:

1. The operator fails to maintain adequate surety.
2. Operations are shut down for more than five years.
3. Operations or reclamation are being conducted such that reclamation cannot be accomplished.

The rules also allow a Notice to be withdrawn if the operator fails to pay permit fees.

There must be an opportunity for a Board hearing.

Cessation Orders

By definition (R647-6-102.1), operations without a valid permit:

- Constitute imminent danger to public health and safety.
- Can be reasonably expected to cause significant imminent environmental harm to land, air, or water resources.

An invalid permit would include inadequate bond and failure to pay permit fees.



Permits and Inspections for 2015

- 600 permits at the end of 2015
- 11 Notices of Violation
- 18 Cessation Orders
- 448 Inspections, 75 per inspector

How do we get into non-compliance situations?

- Operator exceeds permitted acreage and can't come up with additional bond.
- Someone begins operations without approval.
- Occasionally a bank fails leaving the Division with no surety (letters of credit).

Pine Ridge

- Notice found complete on August 13, 2015. Approved for ten acres of disturbance, surety of \$58,700.
- Site inspected September 1, 2015, and cessation order issued September 2, 2015.



Pine Ridge (continued)

- About 60 acres of disturbance though most was shallow.
- Several complaints from the public (mostly about truck traffic which the Division doesn't regulate).
- Concerns from Weber and Cache Counties (no Conditional Use Permit for Cache County).
- Agreement with the land owner was vague at best, and the land owner was not happy.

Pine Ridge (continued)

- The operator posted additional surety and with requirements from OGM and Weber and Cache Counties, reclaimed all but a few small portions of the site.
- Some equipment needs to be removed, and there are weed problems.



Other Examples:

Peat Humus: Needed to get a barge out of the water to protect rare fish but could not locate the operator, even using the sheriff. Used State funds.

B&C Limestone: Operator exceeded permitted acreage, wouldn't (couldn't?) post required additional surety, declared bankruptcy. Supplemented funds from surety with State funds to complete a fair reclamation project.

Currently about eight mines with no sureties and about 20 others with serious concerns about surety amounts.



Potential Tools:

Refuse and/or withdraw Notice for unresolved enforcement actions, including unpaid fines (Applicant/Violator System).

Associate release of surety with fine payment.

Excess surety could be used to pay fines (excess surety returned to “rightful claimant”).

Increase fines.